

**ELEVENTH DAY**

(Monday, February 8, 1993)

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Carriker, Ellis, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Lucio, Luna, Moncrief, Montford, Nelson, Parker, Patterson, Ratliff, Rosson, Shapiro, Shelley, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Absent-excused: Madla.

A quorum was announced present.

The Reverend Dr. Charles L. Covington, Pastor, St. Louis Catholic Church, Austin, offered the invocation as follows:

Almighty and ever living God, we assemble this day as servants and legislators seeking to do Your will. We are charged with the well-being of the great State of Texas and are given the serious and difficult task in the stewardship of education. Be present with each one here today and renew within us an awareness of responsibility for the needs of our society. Place within each heart a spirit of hope and peace, that working together we might build the kingdom that is proclaimed in Jesus Christ our Lord. Amen.

On motion of Senator Harris of Dallas and by unanimous consent, the reading of the Journal of the proceedings of Thursday, February 4, 1993, was dispensed with and the Journal was approved.

**LEAVE OF ABSENCE**

On motion of Senator Luna, Senator Madla was granted leave of absence for today on account of important business.

**CO-AUTHORS OF SENATE BILL 1**

On motion of Senator Zaffirini and by unanimous consent, Senators Sibley, Harris of Tarrant, Bivins, Ellis, Wentworth, Moncrief, Truan, and Nelson will be shown as Co-authors of S.B. 1.

**MESSAGE FROM THE HOUSE**

House Chamber  
February 8, 1993

Mr. President: I am directed by the House to inform the Senate that the House has passed the following:

**S.C.R. 12**, Commending and applauding the Dallas Cowboys Football Team on its admirable victory.

**S.C.R. 15**, Recognizing February 9 and 10, 1993, as Rusk County Day.

**H.C.R. 34**, Honoring Mr. Herbert Reinhold Knauth for his outstanding

career of service to his community as manager of the Overton-New London Area Chamber of Commerce.

**S.C.R. 14**, Expressing deep gratitude to Ernestine Glossbrenner for her exceptional contributions to the State of Texas and wishing her a most rewarding retirement.

**H.C.R. 25**, Congratulating Marie Browan Green on the celebration of her 90th birthday.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

#### RESOLUTIONS SIGNED

The President announced the signing of the following enrolled resolutions in the presence of the Senate:

**H.C.R. 27**

**H.C.R. 20**

#### SENATE BILLS AND RESOLUTION ON FIRST READING

The following bills and resolution were introduced, read first time, and referred to the committees indicated:

**S.J.R. 11** by Patterson

Committee of the Whole Senate on  
Redistricting, Ethics and Elections

Proposing a constitutional amendment relating to the appointment of appellate justices and judges and certain district judges by the governor and to confirmation elections on a nonpartisan ballot of those justices and judges.

**S.B. 254** by Turner, Barrientos, Lucio

Education

Relating to the representation of students on the governing boards of their public university systems.

**S.B. 255** by Patterson

Committee of the Whole Senate on  
Redistricting, Ethics and Elections

Relating to the appointment of appellate justices and judges and certain district judges and to the election on confirmation of those justices and judges.

**S.B. 256** by Shelley

Criminal Justice

Relating to a plea of guilty or nolo contendere in a misdemeanor case.

**S.B. 257** by Ellis, Barrientos

State Affairs

Relating to government contracts for which a performance or payment bond is required.

**S.B. 258** by Bivins

Criminal Justice

Relating to requiring citizenship as a prerequisite to holding a license from the Commission on Law Enforcement Officer Standards and Education.

**S.B. 259** by Leedom

Jurisprudence

Relating to jurisdiction and venue of forcible entry and detainer and forcible detainer suits.

**S.B. 260** by Wentworth Education  
Relating to the number of days or hours of required attendance and the number of days or hours of required instruction in the public schools.

**S.B. 261** by Wentworth State Affairs  
Relating to dismissal of certain misdemeanor traffic charges on completion of a cardiopulmonary resuscitation course.

**S.B. 262** by Henderson Jurisprudence  
Relating to the registration of property tax consultants.

**S.B. 263** by Ellis, Montford State Affairs  
Relating to the adoption of the Texas Free Flow of Information Act concerning disclosure of information by a newsperson in response to a subpoena.

**S.B. 264** by Whitmire Intergovernmental Relations  
Relating to resumption of certain types of service by retirees of police officer retirement systems in certain municipalities.

**S.B. 265** by Sims Criminal Justice  
Relating to the application of the professional prosecutors law to the district attorney of the 35th Judicial District.

**S.B. 266** by Zaffirini, Armbrister, Health and Human Services  
Barrientos, Carriker, Ellis, Haley, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Parker, Ratliff, Rosson, Shapiro, Truan, Turner, West, Whitmire, Harris of Tarrant, Shelley, Patterson, Nelson, Wentworth  
Relating to mandatory immunizations and to the provision of those immunizations.

**S.B. 267** by Zaffirini Health and Human Services  
Relating to the certification of births and to birth certificates.

**S.B. 268** by Whitmire Jurisprudence  
Relating to the execution of wills and codicils to wills.

**S.B. 269** by Wentworth Natural Resources  
Relating to the authority of a county to regulate the use of certain weapons in the unincorporated area of a county; providing a penalty.

**S.B. 270** by Rosson Health and Human Services  
Relating to the form in which a person may provide a copy, summary, or narrative of a patient's medical records.

**S.B. 271** by Barrientos Natural Resources  
Relating to the authority of the Railroad Commission of Texas to implement conservation and distribution plans for alternative fuels.

**S.B. 272** by Barrientos Natural Resources  
Relating to the authority of the Railroad Commission of Texas to accept, receive and administer grants, gifts, loans or other funds for activities of the Alternative Fuels Research and Education Division.

**S.B. 273** by Barrientos Intergovernmental Relations  
Relating to benefits and eligibility for benefits from fire fighters' retirement systems in certain municipalities.

**S.B. 274** by Barrientos State Affairs  
Relating to restroom facilities in places where the public congregates.

**S.B. 275** by Barrientos State Affairs  
Relating to unpaid maternity and parental leave for state employees.

**S.B. 277** by Zaffirini Health and Human Services  
Relating to reporting a finding of paternity to the State Registrar of Vital Statistics.

**S.B. 278** by Montford Finance  
Relating to an emergency appropriation to the Texas Air Control Board.

#### ANNOUNCEMENT OF JOINT SESSION

The President announced that the Senate will meet in Joint Session with the House of Representatives to hear an address by United States Secretary of the Treasury Lloyd Bentsen on Thursday, February 18, 1993, at 12:00 noon, pursuant to S.C.R. 9, previously adopted by the Senate.

#### CAPITOL PHYSICIAN

Senator Armbrister was recognized and presented Dr. Stephen T. Smith of Fulton as the "Doctor for the Day."

The Senate welcomed Dr. Smith and thanked him for his participation in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

#### MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was referred to the Committee on Nominations:

Austin, Texas  
February 8, 1993

TO THE SENATE OF THE SEVENTY-THIRD LEGISLATURE,  
REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointment:

TO BE A MEMBER OF THE TEXAS TRANSPORTATION  
COMMISSION for a term to expire February 1, 1999:

ANNE SHELMIRE WYNNE  
2405 Pemberton Place  
Austin, Texas 78703

Commissioner Wynne is being reappointed.

Respectfully submitted,

/s/Ann W. Richards  
Governor of Texas

#### SENATE CONCURRENT RESOLUTION 17

Senator Whitmire offered the following resolution:

**S.C.R. 17**, Declaring February 7 through 13, 1993, as Burn Awareness Week and encouraging all citizens to support the Shrine of North America and the Shriners Burn Institutes in their efforts to save lives and prevent burn injuries.

The resolution was read.

On motion of Senator Parker and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Whitmire and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

**(Senator Parker in Chair)**

**GUEST PRESENTED**

Senator Whitmire was recognized and introduced Bill Emrie, past Potentate of Ben Hur Shrine of Austin.

The Senate welcomed Mr. Emrie.

**(President in Chair)**

**SENATE BILL 146 ON SECOND READING**

Senator Sibley moved that the regular order of business, Senate Rule 7.13 and Section 5 of Article III of the State Constitution be suspended and that **S.B. 146** be taken up for consideration at this time:

**S.B. 146**, Relating to the failure of a person to perform an act that the person has a duty to perform.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Madla.

The bill was read second time.

Senator Sibley offered the following committee amendment to the bill:

Amend **S.B. 146**, SECTION 1, Subsection (c), by striking the phrase "statute, municipal charter, municipal ordinance, or other law" and inserting the phrase "law as defined by Section 1.07 of this code".

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Sibley and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

**SENATE BILL 146 ON THIRD READING**

Senator Sibley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 146** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Madla.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

#### **SENATE BILL 127 ON SECOND READING**

Senator Leedom moved that the regular order of business, Senate Rule 7.13 and Section 5 of Article III of the State Constitution be suspended and that S.B. 127 be taken up for consideration at this time:

**S.B. 127**, Relating to periodic reports concerning state trust funds.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Madla.

The bill was read second time.

Senator Leedom offered the following committee amendment to the bill:

Amend **S.B. 127**, SECTION 2, by striking the section in its entirety and by inserting the following:

**SECTION 2.** The manager of each state trust fund shall report the information required in Section 3 of the Act not later than the twenty-fifth day of the month following each calendar quarter to the governor, lieutenant governor, speaker of the house of representatives, and the executive director of the State Pension Review Board.

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Leedom and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

#### **SENATE BILL 127 ON THIRD READING**

Senator Leedom moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 127** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Madla.

The bill was read third time and was passed by a viva voce vote.

#### **SENATE BILL 111 ON SECOND READING**

Senator Brown moved that the regular order of business, Senate Rule 7.13 and Section 5 of Article III of the State Constitution be suspended and that **S.B. 111** be taken up for consideration at this time:

**S.B. 111**, Relating to the authority of a volunteer fire department to obtain from the Department of Public Safety and local law enforcement

agencies the criminal conviction record of a volunteer fire department applicant.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Madla.

The bill was read second time and was passed to engrossment by a viva voce vote.

#### SENATE BILL 111 ON THIRD READING

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that S.B. 111 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Madla.

The bill was read third time and was passed by a viva voce vote.

#### PERSONAL PRIVILEGE STATEMENT

Senator Rosson addressed the Senate as follows:

Members, you will find on your desks two articles from the El Paso Times dealing with The University of Texas at El Paso, and statements that were made by Mr. Ashworth of the coordinating board, our Commissioner of Higher Education. Mr. Ashworth indicated that, in his opinion, due to the geographical isolation of El Paso, we should not expect The University of Texas at El Paso to ever become a comprehensive university. He went on to say that to add additional programs to such a regionally located population would be hard to justify.

I submit that the geographically isolated area that is really in question here is the ivory tower in which Mr. Ashworth has his office. It is extremely difficult for me to justify Mr. Ashworth's view of El Paso and the border in general. But I think that he has once and for all confirmed what we have known all along to be the policy and position of the coordinating board: a policy that says that we should be happy to have a university at all; a policy that has resulted in consistent discrimination by the coordinating board toward 20 percent of the population of this state (We have 20 percent of the population along the border; we have 10 percent of the doctoral programs.); a policy of funding that has resulted in consistent and discriminatory underfunding of every border institution of higher education in Texas; a policy that was never acceptable to us; and a policy that, as a result of LULAC v. Richards, has now been held by the court to be unacceptable, period.

We cannot continue to talk about the border being the final frontier of Texas and the economic future of Texas, and allow policies driving our higher education funding that discriminate against the border to continue to exist. I believe that if we continue to allow this type of thinking to dominate the decisions of the coordinating board, we will never, in truth and in fact, realize the full potential of our borderlands or her people. Perhaps Mr. Ashworth has done us a favor in clearly articulating the very

narrow and provincial policy of higher education in this state. It is that attitude, and the consequences of that attitude, that has done so much damage—damage that I hope, with my colleagues, to repair in the near future. And I would ask you, Senator Montford, and members of the Finance Committee, to pay very careful attention to the coordinating board when it comes before you this week. I think they have some things to answer for. Our delegation to the MALDEF negotiations on LULAC v. Richards has called for the resignation of Mr. Ashworth. I am not doing that at this time, but I ask you to be very aware of the discrimination that exists in this state, and those of you on the Finance Committee who can do something about it at this time, do it. Thank you.

ROSSON

#### REPORT OF COMMITTEE ON NOMINATIONS

Senator Barrientos submitted the following report for the Committee on Nominations:

We, your Committee on Nominations, to which were referred the following appointments, have had same under consideration and report them back to the Senate with a recommendation that they be confirmed.

To be a Member of the TEXAS ALCOHOLIC BEVERAGE COMMISSION: Roy Orr, Dallas County.

To be a Member of the STATE BOARD OF INSURANCE: Paul J. Williams, Travis County.

To be Members of the TEXAS STATE TECHNICAL COLLEGE BOARD OF REGENTS: Edward B. Adams, Sr., Travis County; Odelia M. Reyna McEachern, Nolan County.

To be Members of the LAMAR UNIVERSITY SYSTEM BOARD OF REGENTS: Lanny C. Haynes, Jefferson County; Mona Britton Plunk, Hardin County; Michael Ray Ramsey, Jefferson County; Wayne A. Reaud, Jefferson County; Madeline Kaye Savoy, Jefferson County.

To be Members of the MIDWESTERN STATE UNIVERSITY BOARD OF REGENTS: Margaret Furr Darden, Dallas County; Otis C. Polk, Jr., Wichita County; Robert G. West, Tarrant County.

To be Members of the ANTIQUITIES COMMITTEE: Dr. James E. Corbin, Nacogdoches County; Betty N. Murray, Cameron County; Dr. Marion Oettinger, Jr., Bexar County.

To be Members of the TEXAS COMMISSION ON THE ARTS: Dorothy Anne Conn, Jefferson County; Timothy J. Crowley, Brazos County; Carolyn H. Grinstein, Tarrant County; Laurence D. Miller III, Travis County; Dr. David Montejano, Travis County; Raymond Donald Nasher, Dallas County; Matilda Robinson, Dallas County; Marie Swartz, Bexar County.

To be Members of the BATTLESHIP TEXAS ADVISORY BOARD: Pauline M. Delaney, Harris County; Aubrey M. Farb, Harris County.



To be Members of the TEXAS HISTORICAL COMMISSION: George Christian, Travis County; Dr. Clotilde P. Garcia, Nueces County; Thomas E. Kroutter, Jr., Jefferson County.

To be a Member of the TEXAS INCENTIVE AND PRODUCTIVITY COMMISSION: Bill B. Cobb, Hays County.

To be Members of the DEPARTMENT OF INFORMATION RESOURCES BOARD: R. D. "Dan" Burck, Travis County; Dr. Donald L. Hardcastle, McLennan County.

To be Members of the TEXAS STATE LIBRARY AND ARCHIVES COMMISSION: Barbara Silberberg, Dallas County; James B. Stewart, Victoria County.

To be Members of the TEXAS COMMITTEE ON PURCHASES OF PRODUCTS AND SERVICES OF BLIND AND SEVERELY DISABLED PERSONS: Karen A. Allison, Lubbock County; Sue Evans, Williamson County; Kelley Roy Forchand, Potter County; Norine W. Jalloway, Harris County; Hollis F. Pinyan, Smith County.

To be Members of the TEXAS SURPLUS PROPERTY AGENCY BOARD OF DIRECTORS: Travis R. Cooper, Harris County; Walter Lockhoof, Childress County; Robert Mayer, Jr., Dallas County.

To be a Commissioner of the RAILROAD COMMISSION OF TEXAS: Mary Scott Nabers, Travis County.

#### **NOTICE OF CONSIDERATION OF NOMINATIONS**

Senator Barrientos gave notice that he would tomorrow at the conclusion of Morning Call submit to the Senate for consideration nominations to agencies, boards, and commissions of the state.

#### **SENATE RULE 11.11 SUSPENDED**

On motion of Senator Barrientos and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Nominations might meet upon adjournment today.

#### **MEMORIAL RESOLUTIONS**

**S.C.R. 21** - By Armbrister: In memory of Iva Lee Graham of Thorndale.

**S.R. 104** - By Turner: In memory of Mike M. Perrone of Brazos County.

**S.R. 150** - By Sims: In memory of Enoch Shuffield of Brady.

**S.R. 151** - By Sims: In memory of Dr. Douglas Morgan Dennis of Goldthwaite.

**S.R. 158** - By Turner: In memory of Tommy J. Lehman of Giddings.

**S.R. 160** - By Turner: In memory of Thomas C. Letts of Huntsville.

**S.R. 163** - By Turner: In memory of Earle Long of Teague.

**WELCOME AND CONGRATULATORY RESOLUTIONS**

**H.C.R. 34** - (Ratliff): Honoring Herbert Reinhold Knauth for his career of service to his community as manager of the Overton-New London Area Chamber of Commerce.

**S.C.R. 20** - By Whitmire: Recognizing Booker T. Washington High School of the Houston Independent School District on the occasion of its 100th anniversary.

**S.R. 149** - By Patterson: Recognizing Hitchcock High School for its observance of Black History Month.

**S.R. 152** - By Sims: Recognizing Master Sergeant Wesley Feudner for receiving the Randolph First Sergeant of the Year Award.

**S.R. 153** - By Turner: Honoring Tom Swanson, who is retiring after 21 years of service to the City of Groesbeck.

**S.R. 154** - By Turner: Congratulating Mr. and Mrs. Lonnie Hommer Graves on the occasion of their 50th wedding anniversary.

**S.R. 155** - By Turner: Congratulating Mr. and Mrs. Phillip Jones on the occasion of their 50th wedding anniversary.

**S.R. 156** - By Turner: Commending Eugene Dick on his retirement after 20 years of service to the City of Groesbeck.

**S.R. 157** - By Turner: Congratulating Dr. and Mrs. J. Lindell Ferguson on the occasion of their 53rd wedding anniversary.

**S.R. 159** - By Turner: Congratulating Mr. and Mrs. Ralph J. Murphy on the occasion of their 50th wedding anniversary.

**S.R. 161** - By Turner: Congratulating Mr. and Mrs. Ted Weydell of Rockdale on the occasion of their 50th wedding anniversary.

**S.R. 162** - By Turner: Congratulating Mr. and Mrs. A. W. Hoyt of Georgetown on the occasion of their 50th wedding anniversary.

**S.R. 164** - By Turner: Congratulating Ella Sneed of Teague on the occasion of her 108th birthday.

**S.R. 165** - By Moncrief: Congratulating the Fort Worth Police Department on the successful execution of a large drug raid conducted in their city.

**S.R. 166** - By Lucio: Commending Parke-Davis Managed Health Care for its work on behalf of the health and welfare of the people of Texas.

**S.R. 167** - By Lucio: Commending Abbott Laboratories for its work on behalf of the health and welfare of the people of Texas.

**S.R. 168** - By Lucio: Commending Lederle Laboratories for its work on behalf of the health and welfare of the people of Texas.

**S.R. 169** - By Lucio: Commending General Nutrition Products, Incorporated, for its work on behalf of the health and welfare of the people of Texas.

**S.R. 170** - By Lucio: Commending Bristol-Myers Squibb Company for its work on behalf of the health and welfare of the people of Texas.

**S.R. 171** - By Lucio: Commending CIBA-GEIGY Pharmaceuticals Division for its work on behalf of the health and welfare of the people of Texas.

**S.R. 172** - By Lucio: Commending Pharmavite Corporation for its work on behalf of the health and welfare of the people of Texas.

**S.R. 173** - By Lucio: Commending Marion Merrell Dow, Incorporated, for its work on behalf of the health and welfare of the people of Texas.

**S.R. 174** - By Lucio: Commending Food Hold USA, Incorporated, for its work on behalf of the health and welfare of the people of Texas.

**S.R. 175** - By Lucio: Commending Pfizer Pharmaceuticals for its work on behalf of the health and welfare of the people of Texas.

**S.R. 176** - By Lucio: Commending the Council for Responsible Nutrition for its work on behalf of the health and welfare of the people of Texas.

**S.R. 178** - By Parker: Recognizing Kathy Ungerer for her selection in November 1992 as the Texas Elementary Teacher of the Year.

**S.R. 179** - By Parker: Congratulating the Honorable David Aden Dunn of Orange on the occasion of his 51st birthday.

**S.R. 180** - By Parker: Welcoming foreign exchange students Martine Savard of Canada, Martin Juul of Denmark, Lisbet Franson of Sweden, and Christian Johannesdotter of Germany.

#### **ADJOURNMENT**

On motion of Senator Harris of Dallas, the Senate at 11:35 a.m. adjourned until 11:00 a.m. tomorrow.

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#### **APPENDIX**

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#### **REPORTS OF STANDING COMMITTEE**

The following committee reports were received by the Secretary of the Senate:

February 8, 1993

STATE AFFAIRS — **S.B. 202, S.B. 121 (Amended), C.S.S.B. 137**

#### **TWELFTH DAY**

(Tuesday, February 9, 1993)

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by the President.